

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
FROST VALLEY FARMS,

Appellant,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,  
and MAX HINRICHS SEEDS,

Respondents.

PCHB No. 82-109

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the appeal from the granting of an application for change under a ground water permit, came before the Pollution Control Hearings Board, David Akana (presiding) and Gayle Rothrock, Chairman, at a formal hearing on September 21, 1982, in Lacey.

Appellant was represented by a partner, Lester E. Snyder, who was accompanied by Marie Snyder and Jerry Snyder; respondent agency was represented by Charles Douthwaite, Assistant Attorney General; respondent applicant was represented by a partner, Bob Hinrichs. The proceedings were reported by Lois Fairfield.

1 Having heard the testimony, having examined the exhibits, and  
2 having considered the contentions of the parties, the Board makes these

3 FINDINGS OF FACT

4 I

5 Max Hinrichs Seeds (MHS), a partnership, is the holder of Ground  
6 Water Permit No. G3-24789P. The permit authorizes the appropriation  
7 of ground water from 9 points of withdrawal at the rate of 18,000  
8 gallons per minute (GPM) and 6250 acre-feet (AF) per year for the  
9 irrigation of 2500 acres in Adams County.

10 II

11 On January 21, 1982, MHS filed an application for change of point  
12 of withdrawal under the permit. MHS proposed to change the point of  
13 withdrawal for its well No. 7 from 1320 feet east of the W 1/4 corner  
14 of Section 14, T. 16 N , R 36 EWM to a location at 56 feet south and  
15 479 feet east of the NW corner of Section 14, T. 16 N., R 36 E.W N.  
16 Well No 7 is the second of nine wells to be constructed under the  
17 permit.

18 III

19 In response to publication of notice of the application, protests  
20 to the proposed change were filed by three persons, including Lester  
21 Snyder of appellant Frost Valley Farms (FVF) FVF is concerned that  
22 the granting of the change would have an adverse effect on its shallow  
23 domestic, stock and irrigation wells and springs

IV

Appellant has wells and springs in sections 23 and 33 located about 3 miles south southwest of the MHS authorized site for well No. 7. The proposed change would locate well No. 7 one-half mile farther away from these wells and springs. There is no persuasive evidence that the proposed change would measurably affect appellant's wells and springs in that location. In fact, appellant does not object to the change based upon the performance of his wells in this area.

V

Appellant's wells north of the proposed location are of more concern to it. Its stock well, now located about 3/4 mile north northwest of well site No. 7 in Section 10, would be about 1/2 mile from the proposed location. Appellant's domestic well, now located about 1-1/2 miles northwest of well site No. 7 in Section 9, would be about 1/8 mile closer to the proposed location.

VI

The department has ascertained that a series of aquifers down to 1000 feet are poorly connected hydraulically in this area. Uncased well bores through a series of aquifers would interconnect these otherwise poorly connected aquifers causing water from the upper aquifers to drain to lower aquifers. This occurrence would contribute to the decline of water levels in upper aquifers, which are chiefly used for domestic and stockwater supplies. Appellant's wells in

1 Sections 9 (120 feet deep) and 10 (257 feet deep) are withdrawing  
2 ground water from the upper aquifer systems.

3 VII

4 Well No. 7 must be cased and sealed to a depth of at least 500  
5 feet, and deeper if it is found to be necessary. With this condition,  
6 and the knowledge that the series of aquifers are poorly connected  
7 hydraulically, it is not likely that appellant's existing rights in  
8 the upper aquifer systems would be impaired.

9 VIII

10 MHS's well No. 7 will tap the same body of public water in its  
11 present or proposed location. An adjacent landowner, Alvin Hille, is  
12 concerned that the proposed change will bring MHS's well No. 7  
13 one-half mile closer to his proposed points of withdrawal from the  
14 same body of public water under his Ground Water Application  
15 No. G3-24978. MHS's permit has a priority date earlier than Hille's  
16 application, however

17 IX

18 A major concern of appellant is whether MHS will faithfully meet  
19 the conditions of its permit. That issue cannot be presently  
20 addressed: MHS has not yet developed well No. 7. We note, however,  
21 that the Department of Ecology has a variety of enforcement tools to  
22 ensure that MHS will develop the well in a proper manner.

23 X

24 Any Conclusion of Law which should be deemed a Finding of Fact is

1 hereby adopted as such.

2 From these Findings the Board enters these

3 CONCLUSIONS OF LAW

4 I

5 RCW 90.44.100 provides that a ground water permit holder may,  
6 without losing priority, construct wells at a new location in  
7 substitution to the original location. The permit amendment shall be  
8 issued after (A) publication of notice and (B) making findings. Such  
9 findings must show that:

10 (1) The additional or substitute well or wells shall  
11 tap the same body of public ground water as the  
12 original well or wells; (2) use of the original well  
13 or wells shall be discontinued upon construction of  
14 the substitute well or wells; (3) the construction of  
15 an additional well or wells shall not enlarge the  
16 right conveyed by the original permit or certificate;  
17 and (4) other existing rights shall not be impaired.

18 RCW 90.44.100.

19 II

20 Appellant did not show that the department erred in any of its  
21 findings. Accordingly, the department's decision must be affirmed.

22 III

23 Any Finding of Fact which should be deemed a Conclusion of Law is  
24 hereby adopted as such.

25 From these Conclusions the Board enters this

1 ORDER


2 The Department of Ecology Order authorizing a change of point of  
3 withdrawal under Ground Water Permit Number G3-24789P is affirmed

4 DONE at Lacey, Washington this \_\_\_\_ day of November, 1987.

5 POLLUTION CONTROL HEARINGS BOARD

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8 DAVID AKANA, Lawyer Member

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GAYLE ROTHROCK, Chairman